

The complaint

Mr B complains Everyday Lending Limited irresponsibly lent to him.

Mr B is represented by a claims management company. For ease I'll refer to all submissions as if they were made directly by Mr B.

What happened

Mr B took out a guarantor loan with Everyday Lending in March 2018. The capital amount of the loan was £2,600. The term of the loan was 48 months, with repayments of effectively £111.

Mr B complained to Everyday Lending about the loan, saying it had been irresponsibly lent. He brought his complaint to our service, and in the course of our investigation Everyday Lending agreed to uphold the complaint.

In providing its response to upholding the complaint, Everyday Lending said that Mr B's guarantor had made a substantial amount of the repayments. It said it had refunded these payments to Mr B's guarantor. Everyday Lending said that it had also removed all interest and charges which had been applied to the account, and that it would treat all payments Mr B had made as reducing the capital amount he owed. Everyday Lending says after completing these calculations Mr B still owes it money. This is because Mr B had not yet repaid the total amount of capital he had borrowed (the initial £2,600).

Our investigator did not feel the redress which had been proposed was correct, as she did not think it was fair that Mr B have to pay more back than when he initially complained. Everyday Lending disagreed with our investigator and said it had acted fairly in its approach to redress.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

All parties agree that Everyday Lending should not have provided the loan to Mr B. So this decision focuses on whether Everyday Lending has acted fairly in relation to the redress it has proposed.

At this point I think it is worthwhile highlighting that the loan agreement between Everyday Lending and Mr B is still active. Everyday Lending has sent us a breakdown of the confirmation of payments made towards the account. It has also provided confirmation that it refunded Mr B's guarantor the money they had paid.

Everyday Lending has proposed that it remove all interest and charges from Mr B's account, treating any payments as payments being made towards the capital sum. It says as it has refunded the guarantor their payments (and those payments were significant); that it is fair and reasonable that Mr B's balance be placed at the difference between the capital

borrowed and the amount Mr B has paid to date. Everyday Lending says this leaves a balance of approximately £1,600 left to pay (this may have reduced at the time of writing).

I've considered Everyday Lending's proposed redress, and in this instance, I disagree that it is fair and reasonable in this instance. Whilst I acknowledge that Mr B has not yet repaid the capital balance of the money borrowed, I'm satisfied that in this instance increasing his balance to around £1,600 would be unfair.

I've not been told that Everyday Lending received a complaint from the guarantor. And it seems to me that Everyday Lending decided that it should refund the payments to the guarantor as a result of Mr B's successful complaint. It is unclear why Everyday Lending has chosen to refund these payments without a complaint, or unprompted request for them, from the guarantor. That said, Everyday Lending was and is entitled to refund these payments.

However, I don't think that this means Mr B should have to repay amounts that Everyday Lending has chosen to proactively refund in circumstances where he's made a successful complaint. After all, he's played no part in the payments being refunded and in the absence of a complaint or unprompted request for the payments from the guarantor, he reasonably relied upon his outstanding balance being what it was at the time he complained.

I accept that the amount of interest and charges Mr B paid is substantially less than the amount of the payments the guarantor made. And therefore, the net effect is that Mr B hasn't 'paid' any interest and charges as he's paid less than the amount that he was lent. But I'm satisfied that this should result in Mr B not receiving any compensation even though his complaint had been upheld. It certainly doesn't mean that it is fair and reasonable for Everyday Lending to increase his balance, because it has taken a commercial decision to proactively refund payments that, on the face of things at least, it appears that the guarantor was happy to make on his behalf. As this is what Everyday Lending has proposed to do here, I don't think it is acting fairly and reasonably.

Putting things right

We would not expect a complaint's position to be worse off having made a complaint – especially one that has been upheld. That is the situation which Mr B finds himself, and I'm satisfied that isn't reasonable. Everyday Lending has proactively refunded the guarantor, which it is entitled to do, but I'm not persuaded in this instance that should automatically mean Mr B's balance should increase.

Instead, I'm satisfied the fair and reasonable thing to do would be for Mr B's balance to remain at the point it would've been had Everyday Lending not proactively refunded the payments back to guarantor. If that remaining payment has since been made, then I'm satisfied that the loan should be treated as settled and closed.

As Mr B has not made any overpayments it would follow that he is not entitled to any refund in this instance. Everyday Lending has confirmed it will remove negative information in regard to this loan from Mr B's credit file, which I'm satisfied it should continue to do.

My final decision

My final decision is that I uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 3 April 2023.

Tom Whittington
Ombudsman